

24-51-207. Standard of conduct.

(1) The trustees of the board shall be held to the standard of conduct of a fiduciary specified in subsection (2) of this section in the discharge of their functions. Their functions shall include any duty, obligation, power, authority, responsibility, right, privilege, activity, or program specified in this article in connection with the association.

(2) (a) As fiduciaries, such trustees shall carry out their functions solely in the interest of the members and benefit recipients and for the exclusive purpose of providing benefits and defraying reasonable expenses incurred in performing such duties as required by law. The trustees shall act in accordance with the provisions of this article and with the care, skill, prudence, and diligence in light of the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims by diversifying the investments of the association so as to minimize the risk of large losses, unless in light of such circumstances it is clearly prudent not to do so.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (2), the mere settlement or compromise of any dispute by the board pursuant to the authority granted under section [24-51-205](#) (3.5) is not per se a violation of the fiduciary duties of any trustee.

(3) The trustees of the board shall not engage in any activities which might result in a conflict of interest with their functions as fiduciaries for the association.

(4) The trustees of the board, the executive director, the deputy executive directors, and any employee of the association who is in a fiduciary position shall be subject to and shall make financial disclosures pursuant to the provisions of section [24-6-202](#).

(5) Any person who is in a fiduciary position with the association and who is adjudicated of violating any provisions of this article shall be personally liable to pay to the association an amount equal to any losses resulting from such violation and shall be subject to such equitable or remedial relief as the court deems appropriate. The court may enjoin any act or practice which violates any provision of this article.

Source: **L. 87:** Entire article R&RE, p. 1049, § 1, effective July 1. **L. 95:** (2) amended, p. 557, § 17, effective May 22.

Editor's note: This section was contained in an article that was repealed and reenacted in 1987. Provisions of this section, as it existed in 1987, are similar to those contained in 24-51-107 as said section existed in 1986, the year prior to the repeal and reenactment of this article.

ANNOTATION

Trustees' fiduciary duty to deal impartially with its beneficiaries outweighs its duty of loyalty to any particular member, where plaintiff unsuccessfully argued that PERA's fiduciary duties to its members prevented it from performing quasi-judicial functions in determining a member's eligibility for disability benefits. *Tepley v. Pub. Emp. Retirement Ass'n*, 955 P.2d 573 (Colo. App. 1997).